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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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09/412,699 10/05/99 GERSON

I	04776.81658 EXAMINER
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TM02/0730

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ARTUNIT	SOBUTKA, B PAPER
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2683

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DATE MAILED: 07/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.

09/412,699

Applicant(s)

GERSON, IRA A.

Examiner

Philip J. Sobutka

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis, ("The Aurora Project", foundation For Intelligent Physical Agents, June 18, 1996) in view of Houser (US 5,774,859)

Consider claims 9,12,13,15,17,25,26,28,29. Ellis teaches a system comprising a subscriber unit in wireless communication with an infrastructure, the subscriber unit comprising: a portion of a speech recognition element that when activated, begins processing voice based commands, wherein the speech recognition element is implemented by a server within the infrastructure (Ellis, page 1, paragraph 6, - page 2, paragraph 2). Ellis lacks a teaching of a detector for detecting the presence of an indicator during speech that activates the speech recognition processing. Houser et al teaches a speech recognition arrangement in with a detector for detecting a predetermined utterance during speech that activates the speech recognition function (Houser see especially col 17, lines 39-64). It would have been obvious to one of ordinary skill in the art to modify the subscriber unit of Ellis to add a detector to activate the speech recognition as taught by Houser in order to allow the speech recognition function to be disabled until needed, thereby eliminating unnecessary processing.

As to claims 1,4,5,6,20,23,24, the system of Ellis in view of Houser would perform the claimed steps.

As to claim 8,16,21, note that the activation of the recognition feature would inform the server.

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As to claim 18, note that Ellis's subscriber unit is a radiotelephone (Ellis page 1, paragraph 6).

As to claims 2,3,10,11,22,27, note that Houser's activation can be by voice or input to a menu button (Houser col 17, lines 40-64, col 24, line 63 – col 25, line 32).

As to claims 7, Ellis also lacks a teaching of providing an indication to the user that the speech recognition is working. Note that Houser teaches providing an indication to the user that the speech recognition is activated (Houser col 24, line 63 – col 25, line 32). It would have been obvious to one of ordinary skill in the art to further modify Ellis to provide the indication as taught by Houser in order to ensure that user that the recognition function was active.

As to claim 14, Ellis in view of Houser as applied to claim 7, lacks a teaching of the indication being an annunciator. Official Notice is taken that the use of annunciator is well known in the art of radiotelephones, and at least one is provided on each radiotelephone. Therefore, It would have been obvious to one of ordinary skill in the art to further modify Ellis in view of Houser to use an annunciator in order to utilize equipment that is already present in the radiotelephone.

As to claim 19, Ellis in view of Houser also lack a teaching of the cellular telephone being an in-vehicle device. Official Notice is taken that it is well know to provide telephones as in-vehicle devices. It would have been obvious to one of ordinary skill in the art to modify Ellis in view of Houser to provide the telephone as an in vehicle device in order to reduce the possibility that the telephone would be stolen, by allowing most components to be built into the vehicle.

Response to Arguments

2. Applicant's arguments filed 5-10-01 have been fully considered but they are not persuasive.

Applicant argues that the proposed combination would not have the detection take place locally. This is not a persuasive argument since the rejection clearly stated that it was detection at the subscriber unit that the proposed combination would provide. Note that while Houser may have alternate embodiments, detection at the local subscriber is clearly contemplated and certainly not argued against. It should also be noted that even if the detection logic were to be located elsewhere than the subscriber unit the actual interrupt, i.e. the predetermined speech pattern would have to be detected at the subscriber. Even if it were merely a microphone with no other logic circuitry, it would clearly meet the claim requirement of detecting the audio pattern.

As to the argument that Houser's voice recognition does not take place during a voice communication, again, this argument ignores the proposed combination.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Sobutka whose telephone number is 703-305-4825. The examiner can normally be reached on Monday-Friday 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-6296 for regular communications and 703-308-6296 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

pjs
July 27, 2001


WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600